IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 10658 of 2007(R)

PETITIONERS:

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1. P.K.SUDHAKARAN, S/O.KUMARAN KUNJU,
   AGED 66 YEARS, RESIDING AT 'SAFNA', KOTTAPPURAM,
   NEAR KOTTAPURAM L.P.SCHOOL, ANGADIPPURAM PO.
   PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

2. T.PRASANNAKUMARI, W/O.P.K.SUDHAKARAN,
   RESIDING AT 'SAPNA', KOTTAPPURAM, NEAR
   KOTTAPPURAM L.P.SCHOOL, ANGADIPPURAM PO.,
   PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

3. JIMMY.S., S/O.P.K.SUDHKARAN,
   RESIDING AT 'SAPNA', KOTTAPPARAMBA,
   NEAR KOTTAPPURAM L.P.SCHOOL, ANGADIPPURAM P.O.,
   PERINTHALMANNA TALUK, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON

RESPONDENTS:

1.THE ANGADIPPURAM GRAMA PANCHAYATH,
   REPRESENTED BY ITS SECRETARY,
   ANGADIPPURAM, PERINTHALMANNA, MALAPPURAM
   DISTRICT.

2.THE SUB INSPECTOR OF POLICE,
   PERINTHALMANNA STATION,
   PERINTHALMANNA, MALAPPURAM DISTRICT.

R2 BY GOVT. PLEADER SMT.T.B.RAMANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.10658 of 2007

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Dated: 28th March, 2007

JUDGMENT

The grievance voiced by the petitioners in this Writ Petition is that at the behest of a Councilor of the 1st respondent-Panchayat, the Panchayat is threatening to demolish portions of the compound walls and the newly constructed residential building, photographs of which are produced as Ext.P5 series. It is clear from the photographs and from the averments that a road widening project is presently going on. But then the Panchayat will not be justified in demolishing the structures belonging to the petitioners unless it be on the basis of the relinquishment given by the petitioners or on the strength of any proceedings for acquisition of land under the provisions of the Land Acquisition Act if constructions are actually put up on the property over which the petitioners are having title by virtue of Exts.P1 and P2. But in the nature of the dispute, I am of the view that the petitioners will have to approach a competent civil court. But as rightly submitted by Mr.K.M.Sathyanatha Menon, counsel for the petitioners that the petitioners will have to issue a statutory notice under Section 249 of the Act before approaching the civil court. Under these circumstances, I dispose of the Writ Petition in the following terms:

The 1st respondent and the functionaries under him are directed to maintain status quo as it obtains today in respect of the residential building and the compound wall belonging to the petitioners for a period of 45 days from today. The 2nd respondent is directed to ensure that the above direction is faithfully complied with by the 1st respondent. The petitioners are permitted to produce a copy of this judgment before the 2nd respondent as soon as they receive the same from this court so that the 2nd respondent can ascertain as to what is the status quo obtaining as of now. It is open to the petitioners to institute a suit before the appropriate civil court and obtain further orders after the expiry of the 45 days time mentioned in this judgment.

srd **PIUS C.KURIAKOSE, JUDGE**